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December 23, 1998

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Ms. Magalie Roman Salas
Federal Communications Commission
1919 M Street, NW
Room 222
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY
NOTICE OF EX PARTE
PRESENTATION

Re: CC Docket No. 96-128

Dear Ms. Salas:

On December 22, 1998, James Kelly, Chairman & CEO of KELLE Communications Group, Inc., Vincent Sandusky, President of the American Public Communications Council (the "APCC"), Nicholas Allard, Latham & Watkins and the undersigned counsel, all on behalf of the APCC, met with Thomas Power, Legal Adviser to Chairman Kennard, Kathryn Brown, Chief of Staff and Glen Reynolds of the Enforcement Division, to discuss matters of record and current developments in the above-referenced docket. We used the enclosed handout as the basis for our discussion.

If you need any further information, please do not hesitate to give me a call.

Sincerely yours,



Albert H. Kramer

AHK/rw

Enclosure

cc: Mr. Thomas Power
Ms. Kathryn Brown
Mr. Glenn Reynolds

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**FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY**

AMERICAN PUBLIC COMMUNICATIONS COUNCIL

**EX PARTE PRESENTATION
CC DOCKET NO. 96-128
DECEMBER 22, 1998**

I. FAIR “DIAL-AROUND” COMPENSATION IS CRITICAL TO SUSTAIN THE SUPPLY OF PAYPHONES

- ◆ The Telecom Act mandates fair compensation in order to ensure “widespread deployment of payphone services.”
- ◆ Growth in payphones is limited by the explosion of wireless alternatives.
- ◆ The traditional payphone revenue base is shrinking:
 - 0+ coinless traffic has dramatically declined
 - Coin traffic has declined
 - Only dial-around call volume continues to grow - around 160 calls per phone per month in 1997
 - Dial-around calls currently represent about 27% of payphone calls
- ◆ At the current dial-around rate of 28.4 cents per call, many recently installed payphones cannot recover costs.
- ◆ Many existing payphones are “marginal” at 28.4 cents per call and could not be sustained at lower level of dial-around compensation.
- ◆ Competitive alternatives help hold down local coin rates and 0+ commission levels. But there is no way to recover the cost of marginal payphones without fair dial-around compensation.
- ◆ A fair dial-around compensation rate will boost payphone service in rural areas.
- ◆ To promote competition and wide deployment of payphones. The FCC should return the compensation rate to the 35-cent range.

II. THE COMMISSION'S MARKET-BASED RATIONALE IS FUNDAMENTALLY SOUND

- ◆ The court of appeals recognized that in a competitive market, a market-based rate could satisfy the fair compensation requirement.
- ◆ Numerous factors ensure that the payphone market is effectively competitive:
 - *Nearby payphones*
 - *An "elastic" supply of payphone locations*
 - *Wireless alternatives*
 - *Temporal alternatives*
 - *Return customers*
- ◆ Imperfect competition is effective competition – it is *not* monopoly.
- ◆ The market-based approach is superior to cost-of-service ratemaking
 - automatically tracks changes in the market
 - lets market competitors calculate costs
 - self-correcting
- ◆ Cost-of-service ratemaking is inappropriate because:
 - the payphone market is competitive
 - fixed costs make up the bulk of the costs
 - the rate to be set is a per-call rate
 - a pure cost-of-service approach will produce cycles of instability, fewer payphones, and lower quality payphone service

- ◆ The local coin rate can serve as a reasonable market-based proxy. There is a clear supply-side relationship between the costs of local coin calls and dial-around calls: the same equipment is used and the bulk of the costs are shared by both types of calls.
- ◆ *However*, the FCC should correct its implementation mistakes
 - coin mechanism costs should not be subtracted from the local coin rate
 - dial-around collection cost should be added to the local coin rate
- ◆ In summary, the Commission should not stray from its market-based approach to payphone compensation.